United Nations A/HRC/37/69

General Assembly

Distr.: General
9 March 2018

Original: English

Human Rights Council
Thirty-seventh session
26 February – 23 March 2018
Agenda item 4
Human rights situations that require the Council's attention

Report of the Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea*

Note by the Secretariat

Summary

In the present report, the Special Rapporteur makes an assessment of key developments in the Democratic People's Republic of Korea in the area of human rights. He reflects on the implications of the recent escalation in political and security tensions in the wake of nuclear and ballistic missile tests, and emphasizes the need for a diplomatic solution. He also evaluates the situation of human rights in the Democratic People's Republic of Korea, drawing on, inter alia, the testimonies of persons who left the country in 2016 and 2017.

The Special Rapporteur advocates building on recent openings for dialogue that have been made available through the State's engagement with different parts of the United Nations system. These interactions should serve to restore and strengthen communication channels with the international community, de-escalate tensions on the Korean peninsula, and provide a basis to prevent the continued commission of grave human rights abuses.

* Submitted after the deadline in order to reflect the most recent developments.

GE.18-03684(E)

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Contents

		Page
I.	Introduction	3
II.	Political and security developments	3
III.	Field visits	5
IV.	Situation of human rights	5
	A. Civil and political rights	6
	B. Economic, social and cultural rights	9
V.	Engagement of the State with the United Nations	11
VI.	Progress in the accountability agenda	13
VII.	Conclusions and recommendations	13

I. Introduction

1. In the present report, submitted to the Human Rights Council pursuant to Council resolution 34/24, the Special Rapporteur reflects on three key developments since his previous report to the Council. First, he considers the impact of recent turns in the political and security environment on human rights in the Democratic People's Republic of Korea. Second, he evaluates aspects of the situation of human rights in the Democratic People's Republic of Korea on the basis of information he received from different sources, including persons who left the country in 2016 and in 2017. Lastly, he assesses the results of engagement efforts made by the Democratic People's Republic of Korea with the United Nations in 2017, particularly the ways in which they could serve to reduce the State's isolation from the international community and to ensure accountability for human rights violations. The Special Rapporteur concludes the report with recommendations that he hopes will be duly considered and implemented by the parties concerned.

2. The present report should be considered in conjunction with the report most recently submitted by the mandate holder to the General Assembly (A/72/394), in which he called upon the international community to adopt a practical approach to the promotion of human rights in the Democratic People's Republic of Korea using every opening available. In this regard, the Special Rapporteur considers the establishment of communication channels with the United Nations Secretariat a vital step forward to help to remedy the situation. Although the resistance of the Democratic People's Republic of Korea to the mandate continues to be a serious impediment for the Special Rapporteur in his access to the authorities and to the field, the State's recent engagement with other United Nations human rights mechanisms could lead to encouraging opportunities for further cooperation.

3. The Special Rapporteur recognizes the urgency of addressing reported crimes against humanity in the Democratic People's Republic of Korea, and the challenges involved in pursuing criminal accountability at both the national and international levels. Efforts in this field should be strengthened. At the same time, there is a need to instil a culture of accountability in the State's institutions and to create opportunities for a meaningful engagement with the international community on this issue. The assessment of the situation of human rights made by the Special Rapporteur therefore takes into account the need to set the dialogue agenda with the Government on specific human rights challenges, and to identify those individuals or institutions with the responsibility to protect victims and the power to redress the situation. A window of opportunity may currently exist to take this discussion forward, in particular considering the actions taken by a number of international actors, including Governments and members of civil society, and the United Nations system to reach out to the authorities.

II. Political and security developments

4. The year 2017 was particularly tense, with the Democratic People's Republic of Korea conducting the largest number of missile launches and tests using ballistic and nuclear technology in three decades. The Supreme Leader of the Democratic People's Republic of Korea re-emphasized his commitment to the intercontinental ballistic missile and nuclear programmes in his New Year address, while also stressing the continuity of his five-year economic strategy and offering further rapprochement with the Republic of Korea.[1] The Pyeongchang Winter Olympics in the Republic of Korea ushered in an Olympic Truce that brought the two States together. Despite this improvement in inter-Korean relations, the security situation remains volatile and vulnerable to political developments. On 22 December 2017, the Security Council, in its resolution 2397 (2017), extended the sanctions regime to the import of petroleum products and the deployment of workers abroad. The resolution followed three others adopted in 2017 – resolutions 2356

[1] For a transcript of the New Year's Address in English, see www.ncnk.org/node/1427.

(2017), 2371 (2017) and 2375 (2017) – which targeted, inter alia, the extraction and financial industries and the fisheries sector (2375; 2371).

5. In November 2017, the Special Rapporteur exchanged correspondence with the Panel of Experts established pursuant to Security Council resolution 1874 (2009) to monitor compliance with the sanctions regime. The Panel requested the Special Rapporteur to substantiate further the allegation he included in his most recent report submitted to the General Assembly regarding the potential adverse impact of sanctions on the population in the Democratic People's Republic of Korea. In the report, the Special Rapporteur had described instances where sanctions may have had a negative impact, including information he had received about reduced access to chemotherapeutic products for cancer patients, and another allegation concerning delays and blockages in the import of disability equipment. In addition, several United Nations agencies and humanitarian organizations reported a slowdown in their operations in the second half of 2017 as a result of operational difficulties, including in banking channels, and clearance delays.

6. The Special Rapporteur appreciates the Panel's commitment to examining the potential adverse impact of sanctions, and reiterates the call he made in his previous report to the General Assembly for a comprehensive assessment of the unintended impact of Security Council sanctions on the enjoyment of human rights, in particular economic, social and cultural rights.[2] This assessment should also take into account implications for the realization of the right to development, and also examine the question of proportionality between the effectiveness of sanctions and their impact on livelihoods. It could be further strengthened with additional elements, such as an effective monitoring and decision-making process, which could help to identify and respond promptly to negative changes in the situation of vulnerable groups.[3] At the same time, it is imperative that the Democratic People's Republic of Korea publicize specific information, such as historic records and disaggregated economic data, that may help with this assessment. Without the full cooperation of the Government with the Special Rapporteur and with relevant parts of the United Nations, the extent to which sanctions have a negative impact on human rights will remain largely unknown.[4]

7. A noticeable trend in recent months has been the escape of members of the armed forces of the Democratic People's Republic of Korea to the Republic of Korea. Four young soldiers of the People's Army of Korea escaped from their units in 2017. Footage of one escape,[5] during which a soldier was shot multiple times when he ran across the Armistice Line on 14 November 2017, revealed the extreme danger to which people in general and soldiers in particular expose themselves when they attempt to leave the Democratic People's Republic of Korea.

8. From 5 to 8 December 2017, the Under-Secretary-General for Political Affairs visited the Democratic People's Republic of Korea. The Special Rapporteur welcomes this policy dialogue, the first in-depth political exchange of views between a representative of the United Nations Secretariat and officials in Pyongyang in almost eight years and the latest in a series of initiatives to improve communication between the Government and the

[2] The Special Rapporteur also recalls general comment No. 8 (1007) of the Committee on Economic, Social and Cultural Rights on the relationship between economic sanctions and economic, social and cultural rights, in which the Committee emphasized that, although it had no role to play in decisions to impose sanctions, it did have responsibility to monitor compliance by all States parties with the International Covenant on Economic, Social and Cultural Rights. The Special Rapporteur holds an analogous responsibility.

[3] In 2014, the commission of inquiry on human rights in the Democratic People's Republic of Korea declared that it did not support sanctions imposed by the Security Council or introduced bilaterally that were targeted against the population or the economy as a whole (A/HRC/25/63, para. 94 (a)).

[4] On 24 November 2017, the Special Rapporteur addressed a communication to the Permanent Mission of the Democratic People's Republic of Korea to the United Nations Office at Geneva, in which he invited the Government to forward him any additional information that it might have on any negative impact that sanctions had on the population in the Democratic People's Republic of Korea. He also requested a courtesy call to discuss the matter further.

[5] Available from https://youtu.be/0fNy_tWYkd4.

United Nations system. The Special Rapporteur urges the authorities to make the most of the opening made by this visit to allow the United Nations Secretariat to play a greater role in supporting efforts to achieve a peaceful solution to the situation on the Korean Peninsula and sustaining peaceful relations with their neighbours and with other States, including through the Department of Political Affairs, the Office of the United Nations High Commissioner for Human Rights (OHCHR) and the good offices of the Secretary-General.

9. The recent rapprochement between the two Koreas reflects the important efforts made by both States to overcome political differences and to promote the peaceful resolution of tensions. On 3 January 2018, the inter-Korean communications channel, including a military telephone hotline, was formally restored for the first time in two years.[6] The Special Rapporteur views this development as a significant step forward, and encourages the two Governments to mainstream human rights concerns in further interactions and cooperation projects. In particular, it is important that the momentum generated by the Winter Olympics be used to discuss possibilities for bilateral technical support in order to address the most urgent human rights challenges in the Democratic People's Republic of Korea. The two States should consider the possibility of organizing a family reunion event in early 2018 that could offer a starting point for human rights dialogue.

III. Field visits

10. The persistent rejection of the mandate of the Special Rapporteur by the Democratic People's Republic of Korea remains an obstacle to effective information-gathering and communication with the Government. Nevertheless, the Special Rapporteur has carried out outreach activities with the State's authorities through States Members of the United Nations with whom they maintain diplomatic relations, as well as through civil organizations in the East Asia region. In addition, the Special Rapporteur continues to seek official communication with the authorities through their permanent missions in Geneva and New York.

11. The Special Rapporteur carried out two official visits during the period under review: he visited the Republic of Korea from 17 to 21 July, and the Republic of Korea and Japan from 11 to 16 December. In the Republic of Korea, he held meetings with government officials, representatives of the justice system, civil society organizations, the OHCHR field-based structure in Seoul, and with members of the diplomatic community. He was also able to interview several residents of resettlement centres in the Republic of Korea who left the Democratic People's Republic of Korea in 2016 and 2017. He met with a man and a woman who wished to return to the Democratic People's Republic of Korea. In Japan, he met with representatives of the Government and civil society, and interacted with families of persons who had been abducted by the Democratic People's Republic of Korea and remain disappeared.

12. The Special Rapporteur carried out additional missions to Cambodia (31 May to 4 June) and to the Holy See (29 and 30 September) with the aim of exploring entry points for the integration of human rights into the peace and disarmament agenda. In Cambodia, he took part in a regional civil society dialogue on human rights in the context of humanitarian aid and peacebuilding initiatives with the Democratic People's Republic of Korea, which allowed him a productive contact with nationals of that State. In the Holy See, he exchanged views with the Secretary of State on the issue of freedom of religion in the Democratic People's Republic of Korea, and the ways in which the Holy See could foster a peace process in the Korean Peninsula and beyond. The Special Rapporteur intends to explore further contacts with States and organizations that can contribute to the promotion, engagement and understanding of the human rights challenges in the Democratic People's Republic of Korea.

[6] UN News, "UN officials welcome reopening of communications between two Koreas", 3 January 2018.

IV. Situation of human rights

13. The main source of information for the Special Rapporteur continues to be the testimonies of persons who have left the Democratic People's Republic of Korea, which he cross-checks with additional research conducted by OHCHR, civil society organizations and members of the academic community. During his previous visit to the Republic of Korea, the Special Rapporteur was informed that, as at the end of November 2017, no more than 1,000 individuals had been able to reach the Republic of Korea, a 20 per cent decrease when compared with the same period in 2016, and might reflect tighter controls of the border between the Democratic People's Republic of Korea and China. Women continued to account for the majority of escapees, given their better access to smuggling routes, although the proportion of men is rising, as more men now engage in cross-border trade with China than in previous years. The most recent interviews conducted by the Special Rapporteur gave him a more updated insight into the situation of not only economic, social and cultural rights, but of civil and political rights as well.

A. Civil and political rights

1. Condition of prisoners

14. The Special Rapporteur has followed closely the situation of the six nationals of the Republic of Korea and the three nationals of the United States of America who are currently detained in Pyongyang on charges of plotting hostile acts against the State. In August 2017, the State took the welcome step of releasing a Canadian national on humanitarian grounds, which helped to ease political tensions. The release of the remaining foreign detainees would help to improve the State's international stance and to bring ease the political and security situation further. At the very minimum, the Government should provide these detainees with the consular assistance to which they are entitled under the Vienna Convention on Consular Relations, in particular by allowing them access to consular officers, to communicate with their families, and to arrange to be represented by legal counsel of their choosing.

15. The Government of the Democratic People's Republic of Korea has yet to provide an explanation of the circumstances under which Otto Warmbier, a citizen of the United States of America, contracted botulism and fell into coma at a prison in Pyongyang; he died shortly after his repatriation. Questions remain regarding the conditions that caused him to lose extensive brain tissue and to fall into a 15-month coma after he had been reportedly administered a sleeping tablet by prison officials. The Special Rapporteur issued a press statement on the case,[7] in which he highlighted the lack of access to adequate health care for prisoners in the Democratic People's Republic of Korea. He reiterates the need for the Government to provide Mr. Warmbier's family with all information and records concerning the circumstances of his arrest and treatment while in detention.

16. While the Special Rapporteur was still unable to collect information regarding the conditions of detainees in political prisons camps given the secrecy surrounding them, he received information on several cases of ill-treatment in other places of detention between 2015 and 2017. The information concerns holding facilities run by the Ministry of State Security and the Ministry of People's Security, and labour camps (*kyohwaso*) for persons who commit crimes of a non-political nature. The testimony given by a woman who was detained in a *kyohwaso* illustrates the difficulties that detainees face in gaining access to basic services, such as drinking water, in these camps. She recounted that "the first challenge [...] in the morning is to find water, because only three or four cells out of 30 have tap water for a limited time in the morning. We had to walk for an hour to reach a fountain to wash our faces". The witness went on to reveal a discriminatory policy of access to water at the camp: "The heads of the cells - inmates selected by prison officials

[7] OHCHR, "US student case is reminder of prison conditions in North Korea — UN rights expert", 16 June 2017.

according to the extent to which they have a clean record from six major crimes - could wash, but not the rest of us".

17. Persons held in pretrial detention, in particular women forcibly returned from abroad, remain vulnerable to torture. The Special Rapporteur received information on a number of cases of women who had been repatriated in 2016 and 2017 that confirmed a pattern of torture and degrading treatment during their interrogation at holding centres near the border with China. Most of the women conducted informal commercial activities, using smuggling routes that are intertwined with human trafficking networks. The lack of legal and policy protections against trafficking in the Democratic People's Republic of Korea allows traffickers to lure these women into arranged marriages in China or work in the sex industry. One of them recounted her detention experience in May 2016: "After I was repatriated from China, I was taken to a Ministry of State Security *jipkyulso* [holding centre] in Songhu village, in Hyesan. There were both women and men in that building, but mostly women, because in North Korea women have become the main breadwinners after State entities stopped functioning". About the conditions of her detention at the facility, she stated that they "were inhumane; you can't imagine it if you haven't experienced it. We were treated like animals, given only corn to eat, or a poorly made soup of dried radish greens. The toilet is located inside a room that hosted a dozen of people. You're not allowed to move and you have to sit still in the same position. If you move, they beat you".

18. The procedures for arrest and detention are a major challenge in the Democratic People's Republic of Korea, given that people have no basic entitlements to a fair trial or due process of law, such as the right to be heard by an independent and impartial tribunal. Moreover, the lack of access to detention facilities for independent monitors suggests that it is unlikely that prisoners enjoy the necessary protection from abuses by prison officials. The Special Rapporteur urges the authorities to request technical assistance through the United Nations system and the International Committee of the Red Cross (ICRC) to help to reform the operation of its prison system and to bring them into line with international standards. This assistance could be given in the form of pilot projects focused on specific facilities or themes, for example the right to water and sanitation. It could also be given in the form of strategic advice on options to restructure penitentiary administration and amend legislation in ways that account for both the development challenges faced by the State and its international human rights obligations.

2. Abductions and separated families

19. No progress has been made in cases of international abduction. As at the end of January 2018, 17 officially recognized cases of abduction of Japanese nationals remained unresolved, in addition to 883 other cases where abduction by the Democratic People's Republic of Korea could not be ruled out. In addition, 516 citizens of the Republic of Korea who were abducted by the Democratic People's Republic of Korea remain unaccounted for. The Democratic People's Republic of Korea approached OHCHR to help to resolve outstanding case involving its nationals, including the case of 12 women restaurant workers allegedly taken from China to the Republic of Korea against their will in April 2016. The Special Rapporteur highlighted this new case in public statements and reports to United Nations mechanisms, including the fact that the inconsistent accounts he received about the restaurant workers warranted an in-depth analysis of the circumstances of their arrival in the Republic of Korea. The Special Rapporteur encourages relevant parties to explore further mechanisms and strategies to address these allegations with a view to restoring contact between these individuals and their families and, for those who wish, to allowing them to return to the Democratic People's Republic of Korea. He will support these efforts through further advocacy with the Governments concerned and relevant civil society organizations, including the national Red Cross societies of the two Koreas.

20. The allegation of the recent abduction of nationals of the Democratic People's Republic of Korea should be examined alongside historic cases of abduction involving citizens of Japan, the Republic of Korea and other countries that remain unresolved. The Special Rapporteur emphasizes that enforced disappearance is a continuous crime until the fate and whereabouts of every disappeared person are clarified. In the effort to return these persons to their loved ones, there is also the need to bring truth to the families who, without

any reliable information that a disappeared person is still alive, will continue their search. The Special Rapporteur urges the Democratic People's Republic of Korea to use its call for action by the United Nations, and OHCHR in particular, to engage in a broader exchange on the issue of abduction and to commit seriously to investigate and respond to the allegations made against it. In this regard, the Special Rapporteur supports the establishment of a comprehensive framework to examine all cases of persons who have disappeared in the three countries, using a victim-centred approach that is independent of political considerations. In the case of Japan, the Special Rapporteur proposed a reassessment of the agreement signed in Stockholm in May 2014 in an effort to improve on the areas agreed between the Government of Japan and the Democratic People's Republic of Korea. Building on the domestic committee of the Government of the Democratic People's Republic of Korea tasked to investigate the abduction cases of Japanese nationals, it may be useful to call for the participation of experts from both countries, for example, scientific or forensic experts, as well as the participation of international experts.

21. The Special Rapporteur appreciates the efforts made by the Red Cross Society of the Republic of Korea to help to resume family reunion events suspended since October 2015. According to the Government of the Republic of Korea, fewer than 59,000 people are still registered for reunion with their relatives in the North from the original list of 129,616 applicants. The average age of these persons is 81.[8] The Special Rapporteur has stressed the urgent need to attend to these victims and to ensure they do not suffer the consequences of negative political developments in previous reports.[9] The Special Rapporteur calls upon the Government of the Democratic People's Republic of Korea and the Government of the Republic of Korea to take advantage of the momentum generated by the PyeongChang Olympic Games and the resumption of inter-Korean dialogue to organize a family reunion event early in 2018. Channels for people-to-people contact, including through written correspondence and video messages, should also be restored without delay.

22. The Special Rapporteur met with a man and a woman who have resided in the Republic of Korea for a number of years and now wished to return to the Democratic People's Republic of Korea to restore their broken family ties.[10] The two were unable been to return to their homeland owing to restrictions imposed on nationals of the Republic of Korea to communicate with persons in, or to travel to, the Democratic People's Republic of Korea without prior government clearance. They also complained about social stigma and perceived pressure from the authorities that has deeply affected their personal welfare. The Special Rapporteur calls upon the Government of the Republic of Korea to allow them to travel back to the Democratic People's Republic of Korea and to ensure that the interpretation of the National Security Act reflects the provisions of international human rights law concerning the right to liberty of movement.

23. The pattern of forced repatriation of citizens of the Democratic People's Republic of Korea, including children, from China continued throughout the period under review. The Chinese authorities regard these nationals as economic migrants, which makes them ineligible to benefit from any protection and exposes them to the risk of torture once repatriated. The Special Rapporteur urges the Government of China to abide by the principle of non-refoulement and to seek avenues for dialogue on this issue with the Special Rapporteur and the United Nations system as a whole, with a view to grant access to the

[8] The lack of access of the Special Rapporteur to the Democratic People's Republic of Korea prevented outreach to members of separated families who live there and the possibility of seeking clarifications from the authorities.

[9] See also OHCHR, *Torn Apart: the Human Rights Dimension of the Involuntary Separation of Korean Families* (Geneva, 2016).

[10] The Government of the Democratic People's Republic of Korea has drawn the attention of OHCHR to the case of the woman, Kim Ryon Hui. The Special Rapporteur urges the Government to engage with him to address her case further.

field and to provide escapees with the protection to which they are entitled under international as well as Chinese law.[11]

3. Freedom of thought and access to information

24. In his New Year address, the Supreme Leader declared that "all party organizations should never tolerate all shades of heterogeneous ideas and double standards of discipline that run counter to the party's ideology, but strengthen the single-hearted unity of the whole party centred on its Central Committee in every way possible", and instructed "all officials, party members and other working people to launch a general offensive" with the aim of strengthening the national character and way of life of the Democratic People's Republic of Korea. The pledge confirms recent reports on increased restrictions on freedom of thought and conscience and access to information. For example, a woman member of the Workers' Party of Korea who left the country in 2017 claimed that she had been arrested and imprisoned three times in 2015 and in 2016 for engaging in an activity deemed contrary to the dominant party ideology. The woman, who previously practiced divination to earn a living, claimed that the prosecutor told her to write a confession note saying that she engaged in a superstitious activity that was not allowed by the Workers' Party of Korea. She added that, while she was sitting on a chair, the prosecutor constantly prodded her with a wooden stick; whenever she protested, he ordered her not to talk back, and beat her. The woman's activity was also perceived as a threat by the authorities while she was detained, and she was separated from other persons who had been arrested at the offices of the Prosecutor and the Ministry of State Security. She was only able to secure her release after she paid a total of 1,200 Chinese Yuan (approx. $180) in bribes to different officials. Other testimonies revealed tighter controls on access to information, including on mobile communications, despite wider ownership of mobile telephones. For instance, a woman who escaped in 2016 described efforts to evade State control of mobile telephone communications, saying "we only turn on our mobile phones when we need to use them. We know that the Ministry of State Security can locate us or eavesdrop on our conversations, so even when we're at home we don't make calls; instead, we go to the mountains to find a location that bypasses jamming [by the Government]".

25. The right to freedom of thought, conscience and religion and the right to have access to information are protected by various universal instruments to which the Democratic People's Republic of Korea is a State party, including the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of the Child and the Convention on the Rights of Persons with Disabilities. As stipulated in these instruments, these rights encompass the freedom to commit to a belief or personal conviction, whether manifested individually or with others, regardless of the dominant ideology or belief; they thus reflect the universality and indivisibility of human rights. The Special Rapporteur urges the authorities to refrain from enforcing limitations on these rights and other basic freedoms that people still do not enjoy, such as to travel within and outside the country.

B. Economic, social and cultural rights

26. The Democratic People's Republic of Korea continues to pursue the five-year plan to boost economic growth and to "improve the people's standard of living", as announced by the Supreme Leader in his New Year's address; on that occasion, he also announced that

[11] In its resolution 2397 (2017), the Security Council reaffirmed the principle of non-refoulement when it decides that Member States should repatriate to the Democratic People's Republic of Korea all nationals of the Democratic People's Republic of Korea earning income in the Member State's jurisdiction unless the Member State determined that the repatriation of a national of the Democratic People's Republic of Korea was prohibited, subject to applicable national and international law, including international refugee law and international human rights law.

output had increased in 2017 in the steel and chemical industries, among other strategic sectors. The mid-term review of the economic plan should carefully take into account the conditions under which the reported rise in economic output has been achieved; for instance, as shown below, the expansion of the railway network has come at the high cost for the people who live in the areas the Government selected for public works. Furthermore, the economic plan should recognize the interdependence between civil and political rights as well as economic, social and cultural rights. In the absence of an environment in which people are able to assemble and express themselves freely, and are free from fear and discrimination, economic growth can only benefit a privileged minority and lead to socioeconomic gaps.

27. The informal economy, though not openly recognized by the Government, is large and expanding. Testimonies of people who have left the Democratic People's Republic of Korea in recent years show that the markets that have emerged through private transactions partially compensate for the shortfalls of government services in the provision of, inter alia, food, housing and health care. Through their laissez-faire attitude, the authorities seem to accept that markets can have an enabling effect on people's enjoyment of human rights. There is, however, a need to organize these transactions in a way that helps to minimize corruption, introduce a fair taxation system, and broaden possibilities for people to have access to these basic services without discrimination.

1. Right to food

28. Food insecurity is a chronic problem in the Democratic People's Republic of Korea and a cause for grave concern. The collapse of the public distribution system in the wake of the famine in the 1990s did not just reduce people's accessibility to food but also weakened the ability of public authorities to prevent food crises. The latest needs assessment by the United Nations country team in March 2017 revealed that 10.5 million people, or 41 per cent of the population, is undernourished. The scale of malnutrition reflects not just the suffering of a significant part of the population but also the lack of prospects for social, economic and cultural development in society at large. The needs assessment also showed that rations received through the public distribution system, on which 18 million people depend, fall below the government target of an average of 573 g per person and per day. The northern provinces remain prone to natural disasters, and have experienced cycles of drought, flooding and landslides in recent years that reduced farming output and damaged soil quality. United Nations agencies in their activities recognize the increased vulnerability of these geographic areas, and of specific sectors of the population that they host, to food insecurity; for example, the Food and Agriculture Organization of the United Nations (FAO) has set up specific capacity-building activities with the aim of preventing stunting and infant malnutrition in the provinces South Hwanghae, South Hamgyong and Kangwon.[12] There is a risk that the situation will further deteriorate owing to the possible negative consequences of the sanctions imposed on the economy as a whole.

29. The growing informal sector supplants the public distribution system for many communities, as people seek out alternative sources of food. A man who escaped in September 2017 informed the Special Rapporteur that people did not receive any food from the State, and that he was only able to feed himself with the money he made through smuggling activities with China. He added that "between 70 and 80 per cent" of people he knew did not receive any food from the State, and had to look for other sources through their relatives or by doing business. Only senior government officials had access to food rations; their children were fit, and they did not care about the cost of food or clothes like everyone else. The man also explained that children in school do not receive any food. This testimony is consistent with the outcome of recent research into food accessibility in the Democratic People's Republic of Korea, which revealed that food rations continued to vary in frequency

[12] See "DPR Korea: Needs and Priorities", report of the Resident Coordinator for the Democratic People's Republic of Korea, March 2017.

and amount, according to people's geographic location, their employment status and social origin.[13]

30. The ideal of *juche* (self-reliance) upon which the Democratic People's Republic of Korea was founded was emphasized by the Supreme Leader in his New Year Address as a key principle in his five-year strategy to modernize the economy. In practice, the community has moved away from collective action towards individualized forms of self-reliance, as people are forced to find a way to secure their food and other necessities rather than expect assistance from the State. The dilemma that the population faces is to find ways to satisfy daily basic needs while circumventing the formal prohibition and punishment of private initiative by a State that fails to provide for those needs. The authorities should acknowledge these changes when implementing the State economic development plan and consider their responsibilities with regard to the right to food and other economic, social and cultural rights. In particular, they should examine the potential consequences for the principle of progressive realization enshrined in the International Covenant on Economic, Social and Cultural Rights, to which the Democratic People's Republic of Korea is a State party. In addition, the Government should seek the assistance of international experts in the right to food as it implements economic reforms to ensure that it abides by the State's obligations in this area.

31. The Special Rapporteur is concerned that the radioactive fallout of nuclear activity in the Democratic People's Republic of Korea may result in soil and crop contamination. The authorities should recognize the vulnerability of the farming sector to nuclear and radiological emergencies and assess their potential consequences in terms of access to food, as well as their broader impact on public health and the environment. The Special Rapporteur urges the Government to develop a comprehensive emergency preparedness and response plan in consultation with members of the United Nations country team, FAO and the World Health Organization.

2. Right to adequate housing

32. The Special Rapporteur received information concerning the forced eviction of residents of villages in Ryanggang Province as a result of industrial development in the area. In April 2017, the authorities reportedly ordered up to 600 families in the villages to leave their homes, which were then demolished to allow for the construction of a new railway line and high-rise apartment blocks. According to the information received, residents were transferred by the authorities to factory dormitories or told to stay with relatives, but they were not provided with any long-term resettlement options. No measures were taken to consult with or to address the needs of disadvantaged members of these communities, such as children and older persons. Some of the residents evicted were reportedly mobilized alongside the local youth shock brigades to help with the railway construction works. This was not the first time that people in the area had been displaced by the authorities. According to witnesses, in June 2015, local communities were also removed without notice and up to 300 houses were demolished to make way for public infrastructure works.

33. The removal of populations in the context of economic development projects implies a strict set of legal and policy safeguards. Urban or rural development processes should involve all those likely to be affected through the provision of appropriate notice as well as the right to challenge the eviction decision and to be presented with alternative proposals (see A/HRC/4/18, annex I). The Special Rapporteur urges the Government of the Democratic People's Republic of Korea to integrate this participatory approach into its development programmes, and also in accordance with the principles of the rights-based approach to development programming that underpins the 2017-2021 strategic framework of cooperation with the United Nations. The Special recalls the Government's responsibility to provide protection to people, especially the most vulnerable, before, during and after their eviction.

[13] Korea Institute for National Unification, *White Paper on Human Rights in North Korea 2017*, July 2017, pp. 271-283.

34. One noticeable trend that emerged from the testimonies of escapees from different parts of the Democratic People's Republic of Korea, including Pyongyang and the provinces of the interior, was the rapid development of a private housing market; for example, a former resident of Hyesan City in Ryanggang Province who escaped in October 2017 informed the Special Rapporteur that it was common for people to save to purchase a home (a 15-pyeong apartment (50 m²) in her area cost on average 1,500 Chinese yuan ($230)). She explained that the housing market was expanding and that many people relied on remittances from the Republic of Korea to carry out these transactions. The Special Rapporteur calls upon the authorities to ensure that the development of the housing market serves to guarantee that homeowners have security of tenure and are provided with legal protection against eviction or dispossession. The Government should also ensure that the availability of houses through the private sector gives people access to a wider range of housing options and facilitates their voluntary movement between provinces to carry out transactions.

V. Engagement of the State with the United Nations

35. In its concluding observations on the fifth periodic report of the Democratic People's Republic of Korea (CRC/C/PRK/CO/5), the Committee on the Rights of the Child noted that some progress had been made in the prevention of child and maternal mortality, although it expressed concern that the State's laws and public policies did not protect minors, in particular children forcibly repatriated from abroad and those detained in political prison camps, from torture or degrading treatment. The Committee recommended, inter alia, that the Government equip the National Committee for the Implementation of International Human Rights Treaties with an adequate mandate to coordinate the State's engagement with regional and international mechanisms. It also highlighted the need for the authorities to make available official data allowing for the systematic monitoring and evaluation of progress achieved in child protection policies.

36. In its concluding observations on the combined second to fourth periodic reports of the Democratic People's Republic of Korea (CEDAW/C/PRK/CO/2-4), the Committee on the Elimination of Discrimination against Women highlighted several legislative reforms from 2010 that protected women against some forms of violence, although it noted the persistent absence of laws that would allow for a comprehensive definition of discrimination against women. It also drew attention to the lack of information on concrete steps taken by the Government to protect victims of rape and other forms of gender-based violence, and the absence of legal provisions concerning the crime of human trafficking. The Committee requested the authorities to adhere to all international human rights instruments and to use measurable indicators in their assessment of trends in the situation of women.

37. The Special Rapporteur on the rights of persons with disabilities undertook an official visit to the Democratic People's Republic of Korea from 3 to 8 May 2017 (see A/HRC/37/56/Add.1). During the visit, the mandate holder had meetings with officials from the Ministry of Health and the Korean Federation for the Protection of the Disabled, and also visited a number of institutions in Pyongyang and the South Hwanghae Province hosting persons with physical disabilities. It was clear from the interactions with the authorities that there was strong demand for technical assistance in areas such as accessibility and the implementation of international standards regarding universal design. The Special Rapporteur welcomes this opening, which will help the country to transition to a rights-based approach to disability promoting equality and non-discrimination. He urges all relevant actors in the international community to facilitate exposure of officials from the Democratic People's Republic of Korea to international best practices, including in developing countries, and to better access to relevant expertise.

38. The Special Rapporteur encourages the Democratic People's Republic of Korea to enlarge the scope of its cooperation with the international human rights mechanisms in accordance with the recommendations made in the framework of the universal periodic review. Cooperation should be sought, for instance, with the special procedures concerning the negative impact of unilateral coercive measures on the enjoyment of human rights; the

right to food; the right to clean water and sanitation; extreme poverty and human rights; the right to development; trafficking in persons, especially women and children; the promotion and protection of the right to freedom of opinion and expression; the rights to freedom of peaceful assembly and of association; the independence of judges and lawyers; torture and other cruel, inhuman or degrading treatment or punishment; and freedom of religion or belief. The Special Rapporteur urges the authorities to consider the opportunity of cooperating with these mandate holders and to facilitate country visits and other forms of information-sharing, including the release of detailed statistical data on relevant sectors. The Special Rapporteur also encourages continued engagement with the treaty bodies. He will continue to use his mandate to bring these efforts together and to ensure that the Democratic People's Republic of Korea is able to benefit from the wealth of resources that exist through these mechanisms to improve the situation on the ground.

39. The visit to Pyongyang made by the Under-Secretary-General for Political Affairs in December 2017 was a valuable opportunity to diffuse tensions and restore political dialogue with the Democratic People's Republic of Korea. The Special Rapporteur had briefed the Department of Political Affairs on the situation of human rights during his previous visit to Headquarters; although human rights were not the primary focus of the Under-Secretary-General's interaction with the authorities, confidence-building measures in the area of political dialogue will necessarily include a human rights component. For example, the release of foreign nationals who were still in detention at the time of reporting will not only help to reduce frictions with the States concerned but also be progress towards addressing cases of arbitrary detention and irregularities in the administration of justice. Discussions regarding the nuclear ambitions of the Democratic People's Republic of Korea should also take into account the implications of further militarization for human rights. In the view of the Special Rapporteur, the main priority should be to protect people's livelihoods and allow them broader access to public services. This shift in thinking must be backed by a greater effort by the international community to control the arms race on the Korean peninsula as a whole, and to transform the Armistice Agreement into a peace treaty.

VI. Progress in the accountability agenda

40. OHCHR began to implement Human Rights Council resolution 34/24 during the period under review. In that resolution, the Council decided, inter alia, to strengthen, for a period of two years, the capacity of OHCHR, including its field-based structure in Seoul, to allow the implementation of relevant recommendations made by the group of independent experts on accountability in its report aimed at strengthening current monitoring and documentation efforts, establishing a central information and evidence repository and having experts in legal accountability assess all information and testimonies with a view to developing possible strategies to be used in any future accountability process. The selection of the new staff, including a senior criminal justice expert and a team of legal officers, was under way at the time of reporting.

41. The recommendations made by the group of independent experts on accountability (A/HRC/34/66/Add.1) take a long-term and multilateral approach, including through such mechanisms as the International Criminal Court and ad hoc tribunals. The Special Rapporteur supports these efforts and stresses the importance of adopting an information-gathering and advocacy method that is also aimed at achieving immediate results and deterring further human rights abuses. This could come in the shape of interim public reports on the results of documentation activities, urgent appeals to the authorities through the Human Rights Council, or regular updates to the international community on specific allegations and the people or institutions involved. The situation of persons in detention and other groups risking discrimination should be considered a priority area for this reporting task.

42. As international actors continue to consolidate their framework for the promotion of accountability in the Democratic People's Republic of Korea, little is actually known about steps taken by national mechanisms to identify responsibilities for human rights violations. Information on such measures is sporadic and anecdotal; for instance, the Special Rapporteur highlighted in his previous report to the General Assembly that the country

ought to share information on a possible government directive urging detention officials to refrain from violating the rights of detainees during interrogation. The reported dismissal of a large number of senior officials charged with corruption and abuse of power could also indicate that a policy may be in place that protects people from some of the excesses of public officials.[14] The Democratic People's Republic of Korea has every interest in cooperating with the Special Rapporteur and the international community in designing, implementing and assessing these accountability policies, should they exist. Not only would this help the State to apply relevant standards with respect to due judicial process and the right to a fair trial, but also provide victims with an opportunity to better understand the options available to seek justice using national institutions.

VII. Conclusions and recommendations

43. The situation of human rights in the Democratic People's Republic of Korea reflects continuing patterns of serious violations, compounded by a climate of political volatility and conflict rhetoric. The State's extensive penitentiary system and severe restrictions on all forms of free expression, movement and access to information, added to the poor access to basic needs, especially food, continue to nurture fear of the State and leave people at the mercy of unaccountable public officials, including at the provincial level. As in all human rights violations on this scale, the impact on society is not even; it is the weak and invisible who suffer most. Prisoners, residents of rural areas, persons forcibly returned from abroad and those living in poverty are among the most severely affected by human rights abuses.

44. The shortcomings of State structures have strengthened individual resilience and promoted a highly entrepreneurial culture, as people of all ages and genders seek to overcome the failure of the public distribution system and the shrinking of the public sector more generally. While the State's opening to market economics has allowed thousands of individuals to develop successful businesses and to make a living, its underground nature may have undermined the very foundation of State institutions and their relevance to people, particularly in the provinces of the interior. Most importantly, the shadow economy risks exposing women further to the prospect of human trafficking and, for those businesswomen who are returned from abroad, to torture.

45. Despite the scale and gravity of these abuses, an opportunity currently exists to improve the situation through closer cooperation with the international community. After decades of isolation and limited possibilities for scrutiny, monitoring and technical cooperation, the country has started to engage in a dialogue with the treaty bodies and the special procedures of the Human Rights Council, which only a few years ago seemed unlikely. It has incorporated elements of a rights-based approach to programming in its collaboration with the United Nations system. It has approached OHCHR for help to resolve alleged cases of abduction, and also taken part in a regional civil society dialogue on peace and stability. These are positive developments, and evidence that a meaningful dialogue, however difficult, may be possible. The Special Rapporteur urges all members of the international community to continue to build trust with the Democratic People's Republic of Korea and to provide it with a platform that assists it in making the most of technical expertise available in the international human rights system.

46. The promotion of accountability for human rights violations is a complex and continuing project, one that includes a pressing agenda on criminal responsibility, and a parallel longer-term vision for the set-up of a culture of accountability in the State's institutions. While steps have been taken by the Human Rights Council and OHCHR

[14] In his New Year address, the Supreme Leader stated that the party should place emphasis on "rooting out the abuse of the Party authority, bureaucratism and other outdated methods and style of work" – an instruction that might entail accountability measures.

to move the first agenda forward, the authorities of the Democratic People's Republic of Korea have a critical role to play in achieving the second objective, and more broadly in creating and maintaining national ownership of the issue to eventually bring the two accountability agendas into line. In this regard, the Government should open up to communication with OHCHR and other organizations working for the promotion of access to justice. This channel would provide a forum where duty-bearers can learn what international human rights law requires them to do, where they have failed and why, and which avenues exist for them to remedy the situation. In addition, the channel should provide a safe space for victims inside the Democratic People's Republic of Korea to come forward and better understand the ways in which they can seek justice through the mechanisms available, both in their own country and outside it.

47. The Special Rapporteur urges the Government of the Democratic People's Republic of Korea:

(a) To conduct a nationwide review of detention conditions with the support of relevant actors in the international community, including through the United Nations system and ICRC; to ratify all remaining human rights instruments, in particular the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; and to adopt effective policy changes to stop the ill-treatment of persons in detention;

(b) To refrain from enforcing limitations on the right to freedom of thought, conscience and religion, and on the right of access to information and other basic freedoms, such as the freedom of movement;

(c) To investigate promptly unresolved cases of abductions involving citizens of Japan, the Republic of Korea and other States, and to continue to seek the support and mediation of relevant actors on these cases;

(d) To refrain from forcibly evicting populations and to enforce firm safeguards against the involuntary removal of communities, particularly in rural areas;

(e) To examine the shortcomings of the public distribution system that prevent people from having access to the food rations to which they are entitled, and to seek United Nations expertise to reform this system;

(f) To release national statistics, historic records and sector-specific data allowing an assessment of the impact of international sanctions on people's livelihoods;

(g) To resume dialogue with the Republic of Korea on the reunion of separated families;

(h) To provide the three nationals of the United States of America and the six nationals of the Republic of Korea currently detained in Pyongyang with consular assistance, in accordance with the Vienna Convention on Consular Relations, with a view to their release in the near future;

(i) To review its position with regard to the mandate of the Special Rapporteur, and to initiate a process of dialogue;

(j) To broaden the scope of cooperation with the special procedures of the Human Rights Council by extending further invitations to thematic mandate holders.

48. The Special Rapporteur recommends that the Republic of Korea:

(a) Integrate human rights protection concerns in its outreach strategy to the Democratic People's Republic of Korea;

(b) Use the results of monitoring conducted in the framework of the North Korea Human Rights Act to identify challenges of an urgent nature, and offer technical support to help to address them;

(c) Step up efforts to restore family reunions, particularly through the provision of support to national Red Cross societies in the two Koreas to resume listing activities and to channel correspondence between relatives;

(d) Use the recent opening in inter-Korean dialogue to address the allegation concerning the abduction of nationals of the Democratic People's Republic of Korea.

49. **The Special Rapporteur recommends that the United Nations system:**

(a) Build on recent initiatives for human rights dialogue to offer concrete technical assistance programmes that help government officials to address the shortcomings of their policies and the way to improve the situation;

(b) Strengthen confidence-building measures with the Democratic People's Republic of Korea in ways that help to prevent conflict and address human rights concerns;

(c) Continue to press for accountability, including through regular communication with the authorities on the nature and gravity of allegations made against them;

(d) Engage in dialogue with China on the issue of non-refoulement of escapees from the Democratic People's Republic of Korea, with a focus on the rights of individuals in transit;

(e) Call for a comprehensive assessment of the unintended negative impact of Security Council sanctions on the enjoyment of human rights.

50. **The Special Rapporteur recommends that civil society organizations:**

(a) Use existing engagement platforms with the Democratic People's Republic of Korea in the areas of peacebuilding and humanitarian assistance to initiate a conversation on the State's human rights obligations;

(b) Continue efforts to pursue accountability, including by providing continued support to OHCHR accountability efforts through information-sharing and advocacy.